

may determine only whether the debtor has demonstrated that the debt is not subject to recovery through the program so that the commission is able to minimize erroneous offsets. The commission may not review the initial determination establishing the debtor's liability.

(e) The commission shall assess against the debtor the cost of any administrative fee charged by the United States Department of the Treasury for each offset. The commission may add the assessed amount to the covered unemployment compensation debt that is offset under the program.

SECTION 2. This Act takes effect September 1, 2015.

Passed by the House on May 4, 2015: Yeas 128, Nays 11, 2 present, not voting; passed by the Senate on May 20, 2015: Yeas 26, Nays 4.

Approved June 10, 2015.

Effective September 1, 2015.

**POWERS, DUTIES, AND ADMINISTRATION OF
GROUNDWATER CONSERVATION DISTRICTS; AMENDING
PROVISIONS THAT AUTHORIZE FEES**

CHAPTER 415

H.B. No. 2767

AN ACT

relating to the powers, duties, and administration of groundwater conservation districts; amending provisions that authorize fees.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 36.001, Water Code, is amended by amending Subdivisions (8) and (16) and adding Subdivision (31) to read as follows:

(8) "Waste" means any one or more of the following:

(A) withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;

(C) escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;

(D) pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;

(E) *willfully* [~~wilfully~~] or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26;

(F) groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or

(G) for water produced from an artesian well, "waste" also has the meaning assigned by Section 11.205.

(16) "Loan fund" means the groundwater conservation district loan assistance fund created under Section 36.371.

(31) "Operating permit" as used in this chapter means any type of permit issued by a district that relates to the operation of or production from a water well, which may include authorization to drill or complete a water well if the district does not require a separate permit for drilling or completing a water well.

SECTION 2. Section 36.017(i), Water Code, is amended to read as follows:

(i) If a majority of the votes cast at the election are against the levy of a maintenance tax, the district shall set ~~[production]~~ fees *authorized by this chapter* to pay for the district's regulation of groundwater in the district~~[-including fees based on the amount of water to be withdrawn from a well]~~.

SECTION 3. Section 36.0171(h), Water Code, is amended to read as follows:

(h) If the majority of the votes cast at the election are against the levy of a maintenance tax, the district shall set ~~[production]~~ fees *authorized by this chapter* in accordance with Section 35.013(g-1) to pay for the district's regulation of groundwater in the district~~[-including fees based on the amount of water to be withdrawn from a well]~~.

SECTION 4. Section 36.058, Water Code, is amended to read as follows:

Sec. 36.058. CONFLICTS OF INTEREST. A director of a district is subject to the provisions of *Chapters* ~~[Chapter]~~ 171 and 176, Local Government Code, relating to the regulation of conflicts of officers of local governments.

SECTION 5. Section 36.061(a), Water Code, is amended to read as follows:

(a) Subject to the law governing the district, the board shall adopt the following in writing:

(1) a code of ethics for district directors, officers, employees, and persons who are engaged in handling investments for the district;

(2) a policy relating to travel expenditures;

(3) a policy relating to district investments that ensures that:

(A) purchases and sales of investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved; and

(B) periodic review is made of district investments to evaluate investment performance and security;

(4) policies and procedures for selection, monitoring, or review and evaluation of professional services; *and*

(5) policies that ensure a better use of management information, including:

(A) budgets for use in planning and controlling cost; *and*

(B) an audit or finance committee of the board. ~~[-and~~

~~[(C) uniform reporting requirements that use "Audits of State and Local Governmental Units" as a guide on audit working papers and that uses "Governmental Accounting and Financial Reporting Standards."]~~

SECTION 6. Section 36.116(c), Water Code, is amended to read as follows:

(c) In regulating the production of groundwater based on tract size or acreage, a district may consider the service needs or service area of a retail *public* ~~[water]~~ utility. For the purposes of this subsection, "retail *public* ~~[water]~~ utility" shall have the meaning provided by ~~[at]~~ Section 13.002.

SECTION 7. Sections 36.117(a) and (d), Water Code, are amended to read as follows:

(a) A district by rule may provide an exemption from the district's requirement to obtain ~~[a drilling permit, an operating permit, or]~~ any ~~[other]~~ permit required by this chapter or the district's rules.

(d) A district may cancel a previously granted exemption~~[-]~~ and may require an operating permit for or restrict production from a well *and assess any appropriate fees*~~[-]~~ if:

(1) ~~[the well is located in the Hill Country Priority Groundwater Management Area]~~

~~and~~] the groundwater withdrawals that were exempted under Subsection (b)(1) are no longer used solely for domestic use or to provide water for livestock or poultry;

(2) the groundwater withdrawals that were exempted under Subsection (b)(2) are no longer used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

(3) the groundwater withdrawals that were exempted under Subsection (b)(3) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

SECTION 8. Section 36.122(e), Water Code, is amended to read as follows:

(e) The district may impose *an export* ~~[a reasonable]~~ fee or surcharge ~~[for an export fee]~~ using one of the following methods:

(1) a fee negotiated between the district and the *exporter* ~~[transporter]~~;

(2) a rate not to exceed the equivalent of the district's tax rate per hundred dollars of valuation for each thousand gallons of water *exported from* ~~[transferred out of]~~ the district or 2.5 cents per thousand gallons of water, if the district assesses a tax rate of less than 2.5 cents per hundred dollars of valuation; or

(3) for a fee-based district, a 50 percent ~~[export]~~ surcharge, in addition to the district's production fee, for water *exported from* ~~[transferred out of]~~ the district.

SECTION 9. Sections 36.153(a), (b), and (d), Water Code, are amended to read as follows:

(a) Annually and subject to Subsection (c), the board shall have an audit made of the financial condition of the district. *The district audit shall be performed according to the generally accepted government auditing standards adopted by the American Institute of Certified Public Accountants.*

(b) *Financial statements shall be prepared in accordance with generally accepted accounting principles as adopted by the American Institute of Certified Public Accountants.*

The annual audit and other district records must be open to inspection during regular business hours at the principal office of the district.

(d) A financially dormant district may elect *not to conduct an audit and instead* submit to the executive director a financial dormancy affidavit ~~[instead of complying with the audit requirements of Section 49.191]~~.

SECTION 10. Section 36.157(a), Water Code, is amended to read as follows:

(a) A district, *or the county or counties where the district is to be located*, may pay all costs and expenses necessarily incurred in the creation and organization of a district, including legal fees and other incidental expenses, and may reimburse any person, *including a county*, for money advanced for these purposes.

SECTION 11. Section 36.159, Water Code, is amended to read as follows:

Sec. 36.159. GROUNDWATER CONSERVATION DISTRICT MANAGEMENT PLAN FUNDS. The Texas Water Development Board may allocate funds from the water assistance fund to a district to:

(1) conduct initial data collections under this chapter;

(2) ~~[to]~~ develop and implement a long-term management plan under Section 36.1071;~~;~~ and

(3) ~~[to]~~ participate in regional water plans.

SECTION 12. Sections 36.205(f) and (g), Water Code, are amended to read as follows:

(f) A district, including a district described under Subsection (d), may assess a production fee under Subsection (c) *and an export fee under Subsection (g), if applicable*, for any water produced under an exemption under Section 36.117 if that water is subsequently sold to another person.

(g) A district may assess *an export* ~~[a transportation]~~ fee under Section 36.122.

SECTION 13. Section 36.206(a), Water Code, is amended to read as follows:

(a) A temporary board may set ~~[user]~~ fees *authorized by this chapter* to pay for the creation and initial operation of a district, until such time as the district creation has been confirmed and a permanent board has been elected by a majority vote of the qualified voters voting in the district in an election called for those purposes.

SECTION 14. Section 36.207, Water Code, is amended to read as follows:

Sec. 36.207. USE OF ~~[PERMIT]~~ FEES ~~[AUTHORIZED BY SPECIAL LAW]~~. A district may use funds obtained from *administrative, production, or export* ~~[permit]~~ fees collected *under a* ~~[pursuant to the]~~ special law governing the district *or this chapter* for any purpose consistent with the district's approved management plan, including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies.

SECTION 15. Section 36.251, Water Code, is amended to read as follows:

Sec. 36.251. SUIT AGAINST DISTRICT. (a) A person, firm, corporation, or association of persons affected by and dissatisfied with any ~~[provision or with any]~~ rule or order made by a district, *including an appeal of a decision on a permit application*, is entitled to file a suit against the district or its directors to challenge the validity of the law, rule, or order.

(b) *Only the district, the applicant, and parties to a contested case hearing may participate in an appeal of a decision on the application that was the subject of that contested case hearing. An appeal of a decision on a permit application must include the applicant as a necessary party.*

(c) The suit shall be filed in a court of competent jurisdiction in any county in which the district or any part of the district is located. The suit may only be filed after all administrative appeals to the district are final.

SECTION 16. Section 36.3011, Water Code, is amended to read as follows:

Sec. 36.3011. COMMISSION INQUIRY AND ACTION REGARDING DISTRICT DUTIES. (a) *In this section, "affected person" means, with respect to a management area:*

- (1) *an owner of land in the management area;*
- (2) *a groundwater conservation district or subsidence district in or adjacent to the management area;*
- (3) *a regional water planning group with a water management strategy in the management area;*
- (4) *a person who holds or is applying for a permit from a district in the management area;*
- (5) *a person with a legally defined interest in groundwater in the management area;*
or
- (6) *any other person defined as affected by commission rule.*

(b) *An affected person may file a petition with the commission requesting an inquiry for any of the following reasons:*

- (1) *a district fails to submit its management plan to the executive administrator;*
- (2) *a district fails to participate in the joint planning process under Section 36.108;*
- (3) *a district fails to adopt rules;*
- (4) *a district fails to adopt the applicable desired future conditions adopted by the management area at a joint meeting;*
- (5) *a district fails to update its management plan before the second anniversary of the adoption of desired future conditions by the management area;*
- (6) *a district fails to update its rules to implement the applicable desired future*

conditions before the first anniversary of the date it updated its management plan with the adopted desired future conditions;

(7) the rules adopted by a district are not designed to achieve the adopted desired future conditions;

(8) the groundwater in the management area is not adequately protected by the rules adopted by a district; or

(9) the groundwater in the management area is not adequately protected due to the failure of a district to enforce substantial compliance with its rules.

(c) Not later than the 90th day after the date the petition is filed, the commission shall review the petition and either:

(1) dismiss the petition if the commission finds that the evidence is not adequate to show that any of the conditions alleged in the petition exist; or

(2) select a review panel as provided in Subsection (d).

(d) If the petition is not dismissed under Subsection (c), the commission shall appoint a review panel consisting of a chairperson and four other members. A director or general manager of a district located outside the management area that is the subject of the petition may be appointed to the review panel. The commission may not appoint more than two members of the review panel from any one district. The commission also shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary may be an employee of the commission. The recording secretary shall record and document the proceedings of the panel.

(e) Not later than the 120th day after appointment, the review panel shall review the petition and any evidence relevant to the petition and, in a public meeting, consider and adopt a report to be submitted to the commission. The commission may direct the review panel to conduct public hearings at a location in the management area to take evidence on the petition. The review panel may attempt to negotiate a settlement or resolve the dispute by any lawful means.

(f) In its report, the review panel shall include:

(1) a summary of all evidence taken in any hearing on the petition;

(2) a list of findings and recommended actions appropriate for the commission to take and the reasons it finds those actions appropriate; and

(3) any other information the panel considers appropriate.

(g) The review panel shall submit its report to the commission.

(h) Not later than the 45th day after receiving the review panel's report under this section [Section 36.1082], the executive director or the commission shall take action to implement any or all of the panel's recommendations. The commission may take any action against a district it considers necessary in accordance with Section 36.303 if the commission finds that:

(1) the district has failed to submit its management plan to the executive administrator;

(2) the district has failed to participate in the joint planning process under Section 36.108;

(3) the district has failed to adopt rules;

(4) the district has failed to adopt the applicable desired future conditions adopted by the management area at a joint meeting;

(5) the district has failed to update its management plan before the second anniversary of the adoption of desired future conditions by the management area;

(6) the district has failed to update its rules to implement the applicable desired future conditions before the first anniversary of the date it updated its management plan with the adopted desired future conditions;

(7) the rules adopted by the district are not designed to achieve the desired future conditions adopted by the management area during the joint planning process;

(8) the groundwater in the management area is not adequately protected by the rules adopted by the district; or

(9) the groundwater in the management area is not adequately protected because of the district's failure to enforce substantial compliance with its rules.

SECTION 17. Section 36.303(a), Water Code, is amended to read as follows:

(a) If Section ~~[36.108]~~ 36.301, 36.3011, or 36.302(f) applies, the commission, after notice and hearing in accordance with Chapter 2001, Government Code, shall take action the commission considers appropriate, including:

(1) issuing an order requiring the district to take certain actions or to refrain from taking certain actions;

(2) dissolving the board in accordance with Sections 36.305 and 36.307 and calling an election for the purpose of electing a new board;

(3) requesting the attorney general to bring suit for the appointment of a receiver to collect the assets and carry on the business of the groundwater conservation district; or

(4) dissolving the district in accordance with Sections 36.304, 36.305, and 36.308.

SECTION 18. Section 36.321, Water Code, is amended to read as follows:

Sec. 36.321. ADDING LAND BY PETITION OF LANDOWNER. *Subject to Section 36.331, the [The] owner of land not already in [contiguous to] a district may file with the board a notarized petition requesting that the owner's land be included in the district. The petition must describe the land by legal description or by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.*

SECTION 19. Section 36.325, Water Code, is amended to read as follows:

Sec. 36.325. ADDING CERTAIN TERRITORY BY PETITION. (a) Landowners of a defined area of territory not already in a district may file with any district a petition requesting inclusion in that district *and, subject to Section 36.331, the defined area of territory is not required to be contiguous with that district.*

(b) The petition must be signed by:

(1) a majority of the landowners in the territory;

(2) at least 50 landowners if the number of landowners is more than 50; or

(3) the commissioners court of the county in which the area is located if the area is identified as a priority groundwater management area or includes the entire county.

(c) The petition must describe the land by legal description or by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.

SECTION 20. Section 36.328(a), Water Code, is amended to read as follows:

(a) Annexation of the territory *by petition filed under Section 36.325* is not final until ratified by a majority vote of the voters in the territory to be added. An election in the existing district accepting the addition of land is not required.

SECTION 21. The heading to Subchapter L, Chapter 36, Water Code, is amended to read as follows:

SUBCHAPTER L. GROUNDWATER CONSERVATION DISTRICT LOAN ASSISTANCE FUND

SECTION 22. Section 36.371, Water Code, is amended to read as follows:

Sec. 36.371. GROUNDWATER CONSERVATION DISTRICT LOAN ASSISTANCE FUND. (a) The groundwater *conservation* district loan assistance fund is created, to be funded by direct appropriation and by the Texas Water Development Board from the water assistance fund.

(b) Repayments of loans shall be deposited in the water assistance fund.

SECTION 23. Section 36.1082, Water Code, is repealed.

SECTION 24. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

Passed by the House on April 30, 2015: Yeas 138, Nays 1, 1 present, not voting;
passed by the Senate on May 20, 2015: Yeas 31, Nays 0.

Approved June 10, 2015.

Effective June 10, 2015.

JOBS AND EDUCATION FOR TEXANS GRANT PROGRAM

CHAPTER 416

H.B. No. 3062

AN ACT

relating to the Jobs and Education for Texans Grant Program.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 134.001, Education Code, is amended by adding Subdivision (1) to read as follows:

(1) "*Commission*" means the Texas Workforce Commission.

SECTION 2. Section 134.002(a), Education Code, is amended to read as follows:

(a) The *commission* [~~comptroller~~] shall establish and administer the Jobs and Education for Texans (JET) fund as a dedicated account in the general revenue fund.

SECTION 3. Section 134.003, Education Code, is amended to read as follows:

Sec. 134.003. ADVISORY BOARD. (a) An advisory board of education and workforce stakeholders is created to assist the *commission* [~~comptroller~~] in administering this chapter.

(b) The advisory board is composed of *six* [~~seven~~] members who serve two-year terms and are appointed as follows:

- (1) one member appointed by the governor;
- (2) one member appointed by the lieutenant governor;
- (3) one member appointed by the speaker of the house of representatives;
- (4) one member appointed by the Texas Higher Education Coordinating Board;
- (5) one member appointed by the *commission* [~~Texas Workforce Commission~~]; and
- (6) *the chair of the commission* [~~one member of the public appointed by the comptroller; and~~]

[(7) ~~the comptroller~~], who serves as the presiding officer.

(c) The advisory board shall meet at least once each quarter, *or as needed*, to review received applications and recommend awarding grants under this chapter.

SECTION 4. Section 134.004, Education Code, is amended to read as follows:

Sec. 134.004. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM.

(a) The *commission* [~~comptroller~~] shall establish and administer the Jobs and Education for Texans (JET) Grant Program to provide grants to public junior colleges, ~~and~~ public technical institutes, *and independent school districts described under Section 134.007* that apply to the advisory board in the manner prescribed by the advisory board. The *commission* [~~comptroller~~] shall award the grants on the advice and recommendations of the advisory board.